

1 QUINN EMANUEL URQUHART & SULLIVAN, LLP
2 Steven G. Madison (Bar No. 101006)
3 stevemadison@quinnemanuel.com
4 Anthony P. Alden (Bar No. 232220)
5 anthonyalden@quinnemanuel.com
6 865 South Figueroa Street, 10th Floor
7 Los Angeles, California 90017-2543
8 Telephone: (213) 443-3000
9 Facsimile: (213) 443-3100

10 Attorneys for Defendants Viktor Khrapunov,
11 Leila Khrapunova, Iliyas Khrapunov, and
12 Madina Ablyazova

13 UNITED STATES DISTRICT COURT

14 CENTRAL DISTRICT OF CALIFORNIA

15 CITY OF ALMATY, a foreign state,

16 Plaintiff,

17 vs.

18 VIKTOR KHRAPUNOV, an individual;
19 LEILA KHRAPUNOV, an individual;
20 ILIYAS KHRAPUNOV, an individual;
21 MADINA ABLYAZOVA a/k/a
22 MADINA KHRAPUNOVA, an
23 individual; and DOES 1 through 10,

24 Defendants.

25 Case No. 2:15-cv-02628-FMO-CW

26 **NOTICE OF MOTION AND
27 MOTION FOR LEAVE TO
28 WITHDRAW AS COUNSEL**

[Declaration of Steven G. Madison,
[Proposed] Order filed concurrently
herewith]

Hearing Date: October 15, 2015

Hearing Time: 10:00 a.m.

Judge: Honorable Fernando M. Olguin

NOTICE OF MOTION

2 PLEASE TAKE NOTICE that, on October 15, 2015, at 10:00 a.m., in
3 Courtroom 22 of the United States District Court for the Central District of
4 California—Western Division, located at 312 North Spring Street in Los Angeles,
5 California, Quinn Emanuel Urquhart & Sullivan, LLP (“Counsel”) will and hereby
6 do move this Court for an order granting it leave to withdraw of counsel as to
7 Defendants Viktor Khrapunov, Leila Khrapunova, Iliyas Khrapunov, and Madina
8 Khrapunova (collectively, “Defendants”) in the above-captioned matter, pursuant to
9 L.R. 83-2.3, for good cause. Notice has been provided to all parties pursuant to
10 L.R. 83-2.3.2. This motion is based on Defendants’ longstanding failure to pay
11 Counsel’s fees and costs.

12 This Motion is based upon this Notice of Motion and Motion; the attached
13 Memorandum of Points and Authorities; the concurrently-filed Declaration of
14 Steven G. Madison and such additional evidence and argument as may be presented
15 at or before the hearing on this matter.

16 As set forth in the accompanying Declaration of Steven G. Madison, this
17 Motion is made following a conference of counsel held on August 31, 2015,
18 pursuant to Local Rule 7-3.

20 | DATED: August 31, 2015

**QUINN EMANUEL URQUHART &
SULLIVAN, LLP**

By: /s/ Steven G. Madison

Steven G. Madison

Anthony P. Alden

Attorneys for Defendants Viktor Khrapunov, Leila Khrapunova, Iliyas Khrapunov, and Madina Ablyazova

MEMORANDUM OF POINTS AND AUTHORITIES

Preliminary Statement

3 Attorneys for Defendants in this matter, Quinn Emanuel Urquhart & Sullivan,
4 LLP (“Counsel” or “Quinn Emanuel”) respectfully submits to the Court this motion
5 for leave to withdraw as counsel based on Defendants’ ongoing failure to pay
6 Counsel’s fees and costs. Good cause exists to grant this motion. Specifically, for
7 several months Defendants have not fulfilled their obligation to pay the substantial
8 fees and costs incurred by Counsel representing them in this matter and for services
9 rendered in the related matter, Case No. 2:14-cv-03650. According to the
10 California Rules of Professional Conduct, the failure of a client to pay fees and costs
11 is sufficient grounds for counsel to withdraw from representation. Cal. R.P.C. 3-
12 700.

13 Granting this motion will not prejudice Defendants or any other party.
14 Counsel has zealously represented Defendants in this action, filing dispositive
15 motions, a motion to stay discovery, and preparing and serving objections to
16 Plaintiff's discovery requests. Moreover, given the Court's recent scheduling
17 order, it is clear that Defendants will have ample time to retain other counsel and
18 withdrawal will not delay resolution of this matter. Trial is set for August 23, 2016,
19 and the other significant pre-trial dates are set well into 2016.

Background

21 **The Present Action.** On May 13, 2014, Plaintiff the City of Almaty filed a
22 lawsuit in this Court (Case No. 2:14-cv-03650), alleging an international
23 racketeering conspiracy spanning over a decade, against 15 defendants (the “related
24 action”): the former *akim* (a leader of a municipality, district, or provincial
25 government in Kazakhstan) of Almaty, Viktor Khrapunov (“Viktor”); his former
26 wife, Leila Khrapunova (“Leila”); Viktor and Leila’s son, Iliyas Khrapunov
27 (“Iliyas”); Iliyas’s wife, Madina Ablyazova (“Madina”); Viktor and Leila’s
28 daughter, Elvira Kudryashova (“Elvira”); Elvira’s husband, Dmitry Kudryashov

1 (“Dmitry”); and six entities alleged to be involved in Viktor’s “racketeering
 2 scheme.” Dkt. No. 1, 2:14-cv-03650. On January 16, 2015, the Court dismissed
 3 the four Switzerland-based Defendants—Viktor, Leila, Iliyas and Madina—from
 4 the related action because of Plaintiff’s unexcused failure to effect timely service on
 5 them under the Convention on the Service Abroad of Judicial and Extrajudicial
 6 Documents in Civil or Commercial Matters. Dkt. No. 68, 2:14-cv-03650.
 7 Thereafter, on April 8, 2015, Plaintiff filed the present action against Defendants
 8 (Viktor, Leila, Iliyas and Madina). Dkt. No. 1, 2:15-cv-02628.¹ Plaintiff asserts
 9 five causes of action against Defendants in this matter, premised on substantially the
 10 same allegations as in the related action: (1) violations of the Racketeering
 11 Influenced and Corrupt Organizations Act (18 U.S.C. §§ 1962(c), 1962(d), 1964);
 12 (2) breach of fiduciary duty; (3) conversion and conspiracy to commit conversion;
 13 (4) fraud and deceit and conspiracy to defraud; and (5) an accounting and imposition
 14 of a constructive trust and equitable lien. Dkt. No. 1.

15 **Counsel’s Representation of Defendants.** In June 2014, Defendants
 16 retained Counsel to represent them in the related action and, thereafter, in this
 17 action. Declaration of Steven G. Madison (“Madison Decl.”), ¶ 2. Unfortunately,
 18 for several months now, Defendants have failed to timely pay fees and costs for
 19 services rendered in this action and the related action. *Id.* Counsel has diligently
 20 sought payment of the past-due amounts while continuing to zealously represent
 21 Defendants in this Action. *Id.* Nevertheless, Defendants have failed to pay a
 22 substantial amount of fees and costs owed. *Id.*

23 **Counsel Prepares and Files Defendants’ Motion to Dismiss.** On July 6,
 24 2015, Counsel filed on behalf of Defendants two motions to dismiss pursuant to two
 25 separate sections of the Federal Rules of Civil Procedure. One motion seeks
 26 dismissal for Plaintiff’s failure to state a claim pursuant to Federal Rule of Civil

27 ¹ On May 4, 2015, the Court deemed the two matters related and consented to
 28 the transfer of the present action to this Court. Dkt. No. 8, 2:15-cv-02628.

1 Procedure 12(b)(6). Dkt. No. 20. The other motion, brought pursuant to Federal
2 Rule 12(b)(2), is premised on the Court's lack of personal jurisdiction over
3 Defendants. Dkt. No. 19. These matters are currently set for hearing on
4 September 24, 2015.

5 **Counsel Prepares and Files Defendants' Motion to Stay Discovery.** The
6 day after Counsel filed Defendants' Motions to Dismiss, Plaintiff served on
7 Defendants four sets of requests for production and four sets of special
8 interrogatories. Madison Decl., ¶ 4. On July 20, 2015, Defendants filed a Motion
9 to Stay Discovery Pending Resolution of Defendants' Motion to Dismiss for Lack of
10 Personal Jurisdiction, or in the Alternative, on the Basis of *Forum Non Conveniens*.
11 Dkt. No. 23. The Motion to Stay is also currently set for hearing on September 24,
12 2015. Then, on August 6, 2015, Counsel timely served objections to Plaintiff's
13 four sets of requests for production and four sets of special interrogatories, including
14 on the basis that the Court lacks personal jurisdiction over Defendants. Madison
15 Decl. ¶ 4. Accordingly, no substantive party discovery has actually taken place in
16 the case.

17 **The Court’s Scheduling Order.** On August 3, 2015, the Court issued its
18 Scheduling and Case Management Order Re: Jury Trial. Dkt. No. 24. Therein, the
19 Court set the trial in this matter for August 23, 2016. *Id.* at 18. The Court also set
20 the fact discovery cut-off for February 4, 2016, and the expert discovery cut-off for
21 April 18, 2015. *Id.* at 17. The parties have until May 18, 2016 to file dispositive
22 motions. *Id.* at 18.

Argument

I. GOOD CAUSE EXISTS TO GRANT COUNSEL'S MOTION FOR LEAVE TO WITHDRAW

Pursuant to Local Rule 83-2.3.2, the Court may grant an order of withdrawal as counsel upon a showing of good cause. Although the Local Rules do not expound on what constitutes “good cause,” federal courts have looked to the

1 applicable state rules of professional conduct to determine permissible grounds for
 2 withdrawal. *See Global Acquisitions Network v. Bank of Am. Corp.*, 2013 WL
 3 6804660, at *1 (C.D. Cal. Dec. 20, 2013) (“In determining whether adequate
 4 grounds exist for excusing counsel from further representation, federal courts
 5 generally look to applicable state law.”).

6 The California Rules of Professional Conduct permit counsel to withdraw
 7 from representation as attorney of record if the client “breaches an agreement or
 8 obligation to the member as to expenses or fees.” Cal. R.P.C. 3-700(c)(1)(f).
 9 Moreover, as California courts have long held, “it is generally recognized that the
 10 failure or refusal of a client to pay or secure the proper fees or expenses of the
 11 attorney after being reasonably requested to do so will furnish grounds for the
 12 attorney to withdraw from the case.” *Lempert v. Campbell*, 112 Cal. App. 4th
 13 1161, 1173 (2003) (quoting *People v. Prince*, 268 Cal. App. 2d 398, 406 (1968)).
 14 District Courts within California, including the Central District, have repeatedly
 15 held that failure to pay fees constitutes good cause for withdrawal of counsel. *See,*
 16 *e.g.*, *Acquisitions Networks*, 2013 WL 6804660, at *1-2 (granting motion to
 17 withdraw where attorney “has not received payment” for “much of the work he has
 18 performed in this matter”); *Arch Ins. Co. v. Allegiant Prof. Bus. Servs.*, 2012 WL
 19 1745585, at *1 (C.D. Cal. May 16, 2012) (declaration demonstrating client’s failure
 20 to pay legal fees “made a sufficient showing of good cause”); *Hawecker v.*
 21 *Sorenson*, 2012 WL 1119449, at *2-3 (E.D. Cal. April 3, 2012) (breach of client’s
 22 obligations to pay fees constituted grounds for withdrawal).

23 For several months, Defendants have failed to pay fees and costs owed to
 24 Counsel and incurred to date in association with the defense of this action on behalf
 25 of Defendants and for work done on their behalf in the related action. Madison
 26 Decl., ¶ 2. Counsel has diligently sought payment of the outstanding fees and
 27 costs, over several months, without success. This constitutes a breach of
 28 Defendants’ obligations to pay expenses and fees within the meaning of the Rules of

1 Professional Conduct. Accordingly, good cause exists to grant this motion to
2 withdraw.

3 **II. NO PARTY WILL BE PREJUDICED BY THE WITHDRAWAL OF
4 COUNSEL**

5 Withdrawal of counsel will not unfairly prejudice Defendants or any other
6 party in this action or the related action. The defendants in the related action are
7 represented by other counsel and Quinn Emanuel is not and has not been counsel of
8 record for them. Madison Decl., ¶ 6. Additionally, as noted above, Counsel has
9 diligently and zealously represented Defendants in this action. Counsel has filed
10 motions to dismiss for lack of personal jurisdiction and for failure to state a claim,
11 has moved to stay discovery, and has recently responded to discovery served by
12 Plaintiff. *Id.* ¶¶ 3-4.

13 Finally, pursuant to the Court's Scheduling Order, the trial for this matter is
14 currently set for August 23, 2016. The end of fact discovery is not until February 4,
15 2016, the expert discovery cut-off date is not until April 18, 2016, and the parties
16 have until May 18, 2016 to file dispositive motions. Dkt. No. 24. Given the time
17 remaining before trial, and the fact that Counsel has already briefed issues
18 dispositive to this matter, granting withdrawal cause no delay. Defendants have
19 ample time to obtain suitable legal counsel, if they so choose, and Plaintiff should
20 not face any delay in the prosecution of its claims. Accordingly, no party will be
21 prejudiced by Counsel's withdrawal from this matter.

22

23

24

25

26

27

28

Conclusion

For all the foregoing reasons, Counsel respectfully requests that the Court grant it leave to withdraw as Counsel from this matter.

DATED: August 31, 2015

**QUINN EMANUEL URQUHART &
SULLIVAN, LLP**

By /s/ Steven G. Madison

Steven G. Madison
Anthony P. Alden

Attorneys for Defendants Viktor Khrapunov, Leila Khrapunova, Iliyas Khrapunov, and Madina Ablyazova